



PRESS RELEASE

House Armed Services Committee

Floyd D. Spence, Chairman

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SUPERCOMPUTER EXPORT REVIEW PROCESS WORKS

House Armed Service Committee Chairman Floyd Spence (R-SC) and Ranking Democrat Ike Skelton (D-MO) today released a General Accounting Office (GAO) report concluding that government visibility into the export of certain high-performance computers to countries of proliferation concern is working.

The report, *Export Controls 1998 Legislative Mandate for High Performance Computers* (GAO/NSIAD-99-208), was requested earlier this year by Spence and Skelton to assess the effectiveness of provisions in the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85) requiring exporters to notify the Commerce Department of their intent to export high-performance computers – or supercomputers – to countries of proliferation concern (so-called “Tier III” countries). These provisions were adopted by Congress after U.S. high-performance computers were exported without any U.S. government review or oversight to nuclear weapons laboratories in Russia and at least one missile research institute in China.

“The report confirms that the two year-old export notification process required by Congress has, in fact, helped to prevent the shipment of a number of militarily-useful U.S. supercomputers to potentially dangerous end-users,” said Spence. “The law works.”

“The practical effect of the legislation is that it does indeed address the export controls concerns that drove the committee and the Congress to adopt the provisions,” added Skelton.

Using Commerce Department data, the GAO found that between February 3, 1998 and March 19, 1999, there were 938 notifications of intent to export high-performance computers to Tier III countries. Of these, more than ten percent raised national security concerns to the point that they were identified by the federal government as requiring a formal license review. According to GAO, proposed computer exports to China ultimately were denied because they were destined for institutes “reportedly engaged in military or proliferation activities,” while proposed exports to India were denied because they involved end-users “that were engaged in missile proliferation activities.”

“I believe the report’s findings demonstrate that the law helped to prevent sophisticated U.S. computers from winding up in the wrong hands, while also validating the importance of maintaining government visibility of certain exports,” said Spence. “I believe the GAO report also shows that this can be achieved in a manner that balances competing national security and commercial interests.”

(MORE)

“As the committee prepares for hearings on export controls of high-performance computers, I look forward to carefully examining any additional proposals to refine the review process,” said Skelton.

The GAO report was released as part of the House Armed Services Committee’s on-going review of the President’s proposal to change the threshold contained in the fiscal year 1998 defense authorization bill requiring government review of proposed exports of high-performance computers to countries of proliferation concern. The proposed change is scheduled to take effect in January 2000.

Spence and Skelton also sent a letter to President Clinton today asking him to respond to a series of questions on issues related to the export of supercomputers to Tier III countries. “As the Congress reviews the President’s proposal, I hope the answers to these questions will help us evaluate the pros and cons of the change he has proposed,” concluded Spence.

A copy of the letter to President Clinton follows. Copies of the GAO report are available from GAO.

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U.S. House of Representatives

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October 19, 1999

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ANDREW K. ELLIS, STAFF DIRECTOR

Honorable William J. Clinton
President
The White House
Washington, DC 20500

Dear Mr. President:

On July 23, 1999 you notified Congress pursuant to section 1211 of the National Defense Authorization Act (NDAA) for Fiscal Year 1998 (Public Law 105-85) of your intention to revise the thresholds used for the purpose of the notification process associated with the export of high performance computers (HPC) to countries of proliferation concern (so-called "Tier III" countries). Under the law, the proposed changes will not go into effect until after a 180-day period has expired following the notification to Congress.

Accordingly, the House Armed Services Committee has been engaged in a review of your proposed policy revision in order to determine the national security implications of raising the performance threshold that triggers the NDAA notification process and thereby reducing government visibility over a significant volume of U.S. computer exports to Tier III countries. To date, this review has involved discussions with representatives from industry, Administration officials, and other national security experts.

In addition, the General Accounting Office (GAO) recently completed a review of the NDAA notification process, with particular emphasis on whether the process has resulted in the identification of proposed exports to end users of national security or proliferation concern. Using Commerce Department data, the GAO notes that between February 3, 1998, and March 19, 1999, there were 938 notifications of intent to export high-performance computers to Tier III countries. Of these, more than ten percent were identified by the federal government as posing potential national security risks, thereby requiring a license for export. Of the 101 notifications requiring formal license applications, only 16 were eventually approved for export, while six were denied and 79 were returned without action – in practical terms, preventing the export. As the GAO notes, a number of proposed exports to China were denied because they were destined

for institutes “reportedly engaged in military or proliferation activities.” Exports to India were denied because they involved end-users “that were engaged in missile proliferation activities.”

In order to permit the timely completion of the Committee’s review, we request answers to the following questions by November 1, 1999:

1. According to Commerce Department data provided to the GAO, more than 10 percent of FY 1998 NDAA notifications between February 3, 1998 and March 19, 1999 resulted in a requirement for a formal license application based, presumably, on national security concerns. Do you consider this percentage of proposed HPC exports to Tier III countries posing national security concerns to be unexpected or normal?
2. What were the specific reasons for the denial of each license for the export of an HPC to Tier III countries resulting from NDAA notifications to the Commerce Department between February 3, 1998 and March 19, 1999? Of the export license applications that were approved, how many were granted with additional safeguards imposed?
3. With respect to the six denials of export licenses and the 79 license applications “returned without action” during this period, do you believe that the potential national security impact of allowing these HPC exports to proceed was significant? If not, why were the licenses denied or applications impacted to the point of the export not going forward?
4. If the proposed change in the NDAA notification performance threshold goes into effect, what is the projected volume of exports of U.S. HPCs with processing speeds between 2,000 and 6,500 millions of theoretical operations per second (MTOPS) to Tier III countries that is expected to occur between January 2000 and 2001? Of these, how many are projected to be exported to China? To India? How would you specifically characterize the impact that these exports could have on nuclear weapons proliferation? How would you characterize the broader national security implications of these projected HPC exports to Tier III countries?
5. Will the ability of China, India, or Pakistan to process recently acquired nuclear test data improve based on the availability early next year of U.S. HPCs with processing speeds of up to 6,500 MTOPs pursuant to your proposed change in the NDAA notification performance threshold? How significant will any consequent improvement be in the nuclear weapons capability of each of these nations?

6. Based on the percentage of NDAA notifications leading to export licenses cited in question 1, do you expect a similar percentage to apply for NDAA notifications conducted pursuant to the proposed 6,500 MTOPS threshold? If not, why not and what is the projected percentage?
7. What are the projected numbers of NDAA notifications for HPC exports between 2,000 and 6,500 MTOPS to Tier III countries between October 1, 1999 and January 23, 2000 that you expect will require an export license?
8. What is your estimate of the current market share in Tier III countries held by U.S. computer manufacturers for computers with processing speeds below the 2,000 MTOPS threshold? What is your estimate of the current market share in Tier III countries held by U.S. computer manufacturers for computers with processing speeds between 2,000 and 6,500 MTOPS? What is your estimate of the impact on future market share in Tier III countries by U.S. computer manufacturers for computers with processing speeds between 2,000 and 6,500 MTOPS?
9. Do you have any specific evidence or empirical data demonstrating that the NDAA notification process has resulted in the loss of any significant market share held by U.S. computer manufacturers in any Tier III country? If so, please cite which country and the supporting evidence.
10. Which Tier III countries do you consider to be the most significant proliferators of weapons-related technology, and which do you believe pose the greatest threat of diverting U.S.-supplied HPC technology to military purposes? Do you envision removing any countries or otherwise modifying the Tier III country list for the purpose of HPC export controls?
11. What steps are being taken to ensure that any problems in the federal government's HPC review and licensing process are addressed while still ensuring that the federal government has sufficient opportunity to review the national security implications of proposed HPC exports?

The Honorable William J. Clinton
October 19, 1999
Page Four

12. What is the rationale underlying your stated intent to seek a modification to the Congressional review period from 180 days to 30 days for changes to the HPC threshold as established by the FY 1998 NDAA? Do you believe that Congress can adequately assess the national security implications and technical significance of any proposed future change in the threshold within the proposed 30 days?

Thank you for your attention to this matter, and we look forward to your response to these questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Floyd Spence". The signature is fluid and cursive, with the first name "Floyd" written in a larger, more prominent script than the last name "Spence".

Floyd D. Spence
Chairman

A handwritten signature in black ink, appearing to read "Ike Skelton". The signature is fluid and cursive, with the first name "Ike" written in a larger, more prominent script than the last name "Skelton".

Ike Skelton
Ranking Democrat